

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Kansas Corporation Commission Petition for)	WC Docket No. 08-55
Declaratory Rulemaking)	

COMMENTS OF ALLTEL COMMUNICATIONS, LLC

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Alltel Communications, LLC (“Alltel”) respectfully submits these comments in opposition to the Petition for Declaratory Ruling¹ filed by the Kansas Corporation Commission (“KCC”) regarding the KCC’s procedure for certifying carriers’ use of federal universal service support.² The KCC’s certification procedure violates the FCC’s rules and the Communications Act of 1934, as amended (“Act”), and flies in the face of established universal service policy. The FCC should rule that the KCC’s procedure is unlawful, or in the alternative, should dismiss the petition as unripe and untimely.

INTRODUCTION AND OVERVIEW

Sections 54.313 and 54.314 of the FCC’s rules require state commissions to certify annually that federal high-cost universal service support for eligible telecommunications carriers (“ETCs”) in their states “will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³ The KCC purported to implement these rules by imposing a process that has the opposite effect of that intended by the Act and the FCC’s rules. Rather than ensuring that competitive ETCs (“CETCs”) like Alltel use high-cost

¹ Kansas Corporation Commission’s Petition for Declaratory Ruling, WC Docket No. 08-55 (filed Apr. 16, 2008) (“Petition”).

² See *Comment Sought on Petition Filed by Kansas Corporation Commission for Declaratory Ruling*, Public Notice, WC Docket No. 08-55, DA 08-1060 (rel. May 2, 2008) (“Public Notice”), at 1.

³ 47 C.F.R. §§ 54.313, 54.314; see also 47 U.S.C. § 254(e).

support for the intended purposes, the KCC's certification procedures actually prohibit CETCs from using federal universal service funds to provide, maintain, and upgrade their facilities and services throughout the service areas for which they have been designated ETCs and in which they have committed to provide ubiquitous universal service. By restricting CETCs' ability to invest in certain rural geographic areas based on the identity of the incumbent local exchange carrier ("ILEC") serving those areas, the KCC's procedures not only run counter to the Act and the FCC's rules, they also inflict serious harm on consumers who live, work, or travel in those rural areas.

Moreover, the FCC should dismiss the Petition as untimely. To date, the KCC has not denied funding to Alltel or (to our knowledge) any other CETC on the basis of the certification process at issue here. While Alltel strongly believes that the KCC's requirements violate the Act and established policy, the FCC need not at this time reach questions about the lawfulness of an expenditure certification process that to date has not been employed to deny funding improperly to CETCs. Moreover, the KCC's procedures implicate whether and how non-dominant wireless CETCs' "actual costs" should be measured, analyzed, and allocated – a matter under active review in the *Identical Support NPRM* and other pending FCC proceedings.⁴ Addressing the narrowly framed issue in this Petition would amount to piecemeal decision-making. Furthermore, any decision here may well become moot depending upon the outcome of pending proceedings, and could interfere with the FCC's ability to reform its high-cost universal service program in a comprehensive and holistic manner.⁵

⁴ See *High-Cost Universal Service Support*, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) ("*Identical Support NPRM*"); *High-Cost Universal Service Support*, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) ("*Auctions NPRM*"); *High-Cost Universal Service Support*, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) ("*Joint Board NPRM*") (2008) ("collectively, the "*Reform Notices*").

⁵ See, e.g., *High-Cost Universal Service Support*, Recommended Decision, 22 FCC Rcd 20477 (Jt. Bd., Nov. 20, 2007), Statement of Commissioner Michael J. Copps, Approving in Part, Concurring in Part ("This is no place for piecemeal actions. We need to think expansively and creatively about implementing the path-breaking broadband

BACKGROUND

The KCC designated Alltel as an ETC in a service area comprising 92 wire centers in the service territory of Southwestern Bell Telephone Company (referred to as “SWBT” or “AT&T”) and 26 study areas served by smaller ILECs.⁶ The Act requires that Alltel, like all incumbent and competitive ETCs receiving federal universal service support, “shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended,” and “shall, throughout the service area for which the designation is received, offer the services that are supported by Federal universal service support mechanisms.”⁷

Throughout its ETC designated service area, Alltel receives federal per-line funds based on the “billing address ... of a mobile wireless customer in a service area”⁸ and the same amounts of per-line funding received by the ILECs. Alltel, like all commercial mobile radio service providers, holds FCC radio spectrum licenses covering geographic areas that do not correspond with the ILECs’ wire centers or study area boundaries. Consequently, Alltel’s service area in Kansas (and in other states) encompasses multiple ILEC service territories. These include areas served by small ILECs deemed “rural telephone companies” as well as those served by larger carriers such as SWBT, which is referred to as a “non-rural carrier” but serves

decision that has now been presented to us. This country desperately needs a comprehensive broadband strategy.”); *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For Consent to Transfer Control of Licenses, Leases and Authorizations*, Memorandum Opinion and Order, WT Docket No. 07-128, FCC 07-185 (rel. Oct. 26, 2007), Statement of Commissioner Michael J. Copps, Approving in Part, Dissenting in Part (“[P]iecemeal Universal Service Fund (USF) reform is actually counter-productive to the far more important goal of rationally implementing comprehensive reform.”); *High-Cost Universal Service Support*, Order, FCC 08-122, (rel. May 1, 2008) (“*CETC Cap Order*”), Dissenting Statement of Commissioner Michael J. Copps (“I dissent from today’s decision to cap high-cost support for competitive eligible telecommunications carriers (CETC) because it falls woefully short of the fundamental, comprehensive reforms needed to meet the overarching telecommunications challenge of the Twenty-first century.”); *Identical Support NPRM*, Statement of Commissioner Robert M. McDowell (“I have consistently stated that, while the Universal Service system has been instrumental in keeping Americans connected and improving their quality of life, this system is in dire need of comprehensive reform.”).

⁶ *Application of Alltel Kansas Limited Partnership for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. 04-ALKT-283-ETC, Order Granting Designation and Addressing Additional Issues (rel. Sept. 24, 2004) (“*KCC Alltel ETC Designation Order*”), at 1.

⁷ 47 U.S.C. §§ 254(e), 214(e)(1)(A).

⁸ 47 C.F.R. § 54.307(b).

“rural, insular, and high cost areas”⁹ that qualify for universal service support. Alltel is obligated to use all the federal universal service support it receives to provide services and facilities “throughout the service area for which the designation is received,”¹⁰ including those portions of Alltel’s ETC designated service area that are served by SWBT and the rural ILECs.

The instant proceeding concerns the KCC’s implementation of Sections 54.313 and 54.314 of the FCC’s rules, which require states to certify annually that ETCs within their jurisdictions are using federal high-cost support for the intended purposes. In July 2006, the KCC adopted rules and procedures governing its annual certification, including the forms and requirements subject to the instant Petition for Declaratory Ruling.¹¹ The KCC requires all ETCs to supply network expenditure data to verify that federal universal service high-cost revenues were being used for the intended facilities and services. However, the KCC’s cost reporting forms specifically preclude CETCs from demonstrating that they are using federal universal service funds to provide, maintain, and upgrade their facilities and services throughout the service areas for which they have been designated ETCs. Rather, the KCC has directed CETCs to “exclude expenses and investments for SWBT exchanges when justifying federal USF support.”¹² Alltel, joined by other CETCs, challenged the KCC’s restriction on CETCs’ use of federal support in portions of their service area overlapping SWBT wire centers as erroneous and contrary to the Act or the FCC’s rules.

On reconsideration, the KCC purported to justify this restriction on the grounds that, “[b]ecause SWBT does not receive high-cost loop support for which certification is necessary,

⁹ 47 U.S.C. § 254(b)(3).

¹⁰ *Id.* § 214(e)(1).

¹¹ *In the Matter of USF Certification for the Year 2007 in compliance with Section 254(e) of the Federal Telecommunications Act of 1996, and Non-Rural Carrier Certificate of Urban/Rural Rate Comparability*, Order Opening Docket, Docket No. 07-GIMT-025-GIT (rel. July 27, 2006) (“KCC July 2006 Order”); *see also* Petition at 3.

¹² *KCC July 2006 Order*, Staff Memorandum at 2.

SWBT's service areas are not supported areas.”¹³ The KCC rejected CETCs' showings that SWBT also serves rural areas that qualify for federal high cost support, and instead took the position that “[t]he availability of IAS is not relevant to certification requirements being addressed in this docket.”¹⁴ The KCC's decisions were appealed to the U.S. District Court for the District of Kansas, and the Court denied the KCC's motion to dismiss and held that the issue was a matter subject to the FCC's “primary jurisdiction.”¹⁵

ARGUMENT

I. The KCC Certification Procedure Is Unlawful Because It Prohibits a CETC From Expending Funds to Provide Supported Services Throughout Its Service Area.

A. The KCC's Requirements Are Contrary to the Act.

The universal service provisions in the Act are based on the principle that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas” and that they should have such access “at rates that are reasonably comparable to rates charged for similar services in urban areas.”¹⁶

As Alltel demonstrated to the KCC and the KCC recognized, “it is obvious to those familiar with Kansas (including [the KCC's] commissioners) that some SWBT areas in this state

¹³ *Review of the Commission's Federal USF Certification Requirement to Remove All Expenses and Investments by Competitive Eligible Telecommunications Carriers in a Southwestern Bell Telephone, L.P., Study Area from the Competitive Eligible Telecommunications Carrier's Justification of Use of High Cost Federal USF Support*, Order, Docket No. 07-GIMT-498-GIT, ¶ 2 (rel. Aug. 9, 2007) (“KCC August 2007 Order”).

¹⁴ *Id.* ¶ 53.

¹⁵ *USCOC of Nebraska/Kansas, LLC v. Kansas Corp. Comm'n*, Case No. 07-2527-JAR, Memorandum and Order (Feb. 1, 2008) (Attachment 1 to the KCC Petition).

¹⁶ 47 U.S.C. § 254(b)(3).

are rural.”¹⁷ However, the end result of the KCC certification procedure at issue in the Petition for Declaratory ruling is that CETCs are effectively prohibited from investing in such areas solely due to the regulatory classification of the ILEC, despite the fact that these areas are rural and high-cost by any other definition. The KCC’s restriction on CETC use of funding in these service territories is unlawful because it forbids the use of support to provide, maintain, and upgrade facilities in these obviously rural areas for which a CETC has been designated to offer supported services. This restriction eviscerates a CETC’s capacity to provide supported services “throughout the service area for which the designation is received”¹⁸ – the very service area in which the KCC has designated Alltel and other carriers as eligible to receive support.

The KCC’s certification procedure thus presents CETCs with an impossible dilemma: either complying with their federal mandate and providing supported services throughout their designated service areas, but without the use of funding otherwise available to them; or providing no supported services in non-rural areas within the CETCs designated service area merely because of the identity of the ILEC that happens to serve a particular wire center. The KCC’s requirement thus conflicts with and is preempted by the provisions of Section 214 and 254 of the Act and the FCC’s rules implementing those statutory commands.

B. The KCC’s Requirements Are Contrary to the FCC’s Rules and Have Been Directly Rejected by the FCC.

The FCC, in its orders creating the state certification requirements¹⁹ that the KCC purported to implement, addressed and specifically rejected the restriction that the KCC is now

¹⁷ *KCC August 2007 Order* ¶ 26; Direct Testimony of Steve Mowery on Behalf of Alltel Kansas Limited Partnership, Docket No. 07-GIMT-498-GIT, at 5-6 (May 4, 2007) (“Mowery Direct Testimony”), attached hereto as Exhibit A (describing the unquestionably rural character of areas of the state that are served by both Alltel and SWBT).

¹⁸ 47 U.S.C. § 214(e)(1)(A); *see also* 47 C.F.R. § 54.202(a)(1)(i).

¹⁹ *Federal-State Joint Board on Universal Service*, Ninth Report and Order, 14 FCC Rcd 20432, ¶¶ 97-104 (1999) (“*Ninth Report and Order*”), *remanded*, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001); *on remand*, *Federal-State Joint Board on Universal Service*, Order on Remand, 18 FCC Rcd 22559 (2003) (“*FCC Tenth Circuit Remand Order*”), *aff’d in part and remanded in part*, *Qwest Communications Int’l Inc. v. FCC*, 398 F.3d 1222, 1238 (10th Cir. 2005) (specifically affirming strengthened state certification provisions).

imposing on CETCs – that “high-cost support must be used in wire centers to which it is targeted.”²⁰ The FCC initially adopted the Section 54.313 state certification requirement in 1999 in conjunction with the creation of two new federal universal service high-cost funds (the forward looking high-cost mechanism now known as the “HCM,” and a separate “hold harmless” mechanism based on embedded costs, which later was eliminated), both to be distributed on a geographically disaggregated basis in different wire centers. The FCC stated that “states can direct carriers to spend the federal support in a manner consistent with section 254(e), though not necessarily in the wire center to which the support was targeted.”²¹ AT&T asked the Commission to rule that “states must direct non-rural carriers to use support only within the wire centers to which it is targeted.”²² The Commission flatly denied AT&T’s proposal, concluding that such an approach would be “inconsistent with the Commission’s stated intention in the *Ninth Report and Order*.”²³ In other words, the Commission made clear that not only are state commissions not required to adopt such an approach, they are prohibited from doing so.

In adopting the Section 54.314 state certification requirement with respect to the High Cost Loop (“HCL”) and Local Switching Support (“LSS”) “rural carrier” funds, the FCC made it clear that this requirement was intended to carry out the same policy as the Section 54.313 requirement with respect to the HCM and hold harmless funds adopted in the *Ninth Report and Order*.²⁴ to hold the state commissions accountable for the appropriate use of such federal funds

²⁰ *FCC Tenth Circuit Remand Order* ¶ 137.

²¹ *Id.* ¶ 83.

²² *Id.*

²³ *Id.*

²⁴ *Federal-State Joint Board on Universal Service*, Fourteenth Report and Order, 16 FCC Rcd 11244, ¶¶ 187-88 (2001) (“*RTF Order*”).

as “intended to enable the reasonable comparability of intrastate rates.”²⁵ Like the so-called “non-rural” funds, the Commission never required that the “rural” HCL or LSS funds had to be expended in the wire centers to which they were targeted. To the contrary, the Commission made it clear that a requirement that ETCs “use support only within the wire centers to which it is targeted” is contrary to FCC policy.²⁶ Following its own precedent, the FCC, in its capacity under Section 214(e)(6) of the Act as designator of CETCs where the state commission lacks jurisdiction, has approved CETC expenditures of support in “non-rural” areas, such as Verizon service territories in New Hampshire, and former BellSouth territories in Alabama.²⁷

Indeed, SWBT actually does receive federal high-cost support via the Interstate Access Support (“IAS”) mechanism, which distributes funds using a “methodology [that] is designed to direct greater amounts of support to higher cost areas.”²⁸ The KCC erroneously suggests in its Petition that SWBT “is not eligible under the FCC’s regulations for USF support” in Kansas.²⁹ This statement inexplicably ignores the fact that SWBT does receive federal IAS support. In fact, SWBT receives IAS funding in 86 of the 110 wire centers in which the KCC has designated Alltel as a CETC.³⁰

²⁵ *Id.* ¶ 95 (emphasis in original). In its decision to distribute differing amounts of “hold harmless” support in different wire centers, the FCC recognized that this embedded cost-based mechanism might “not necessarily reflect the forward-looking cost of serving customers in a particular area,” and that the varying amounts of federal support distributed in the different wire centers probably would not line up with intrastate rates over which “states have primary jurisdiction.” *Ninth Report and Order* ¶¶ 90, 95.

²⁶ *Id.*

²⁷ See *RCC Minnesota, Inc. and RCC Atlantic, Inc.*, 20 FCC Rcd 15833 (2005); *Cellular South Licenses, Inc.*, CC Docket No. 96-45, Supplement (filed May 14, 2004).

²⁸ *Access Charge Reform*, Sixth Report and Order, 15 FCC Rcd 12962, ¶ 206 (2000) (“*CALLS Order*”) (emphasis added), *aff’d in part and remanded in part, Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

²⁹ Petition at 2.

³⁰ See Mowery Direct Testimony at 5. SWBT also receives support in the form of Kansas state universal service funds, and it benefited in the past and continues to benefit from implicit subsidies such as access charges and statewide averaging mechanisms. See *id.* at 4-6; see also *infra* note 37.

II. The KCC's Procedure Makes No Sense As a Public Policy Matter And Harms Consumers Who Live, Work, and Travel in Areas Deprived of Support.

Brief consideration of the ramifications of the KCC's certification procedure highlights the unfortunate results of this policy for Kansas consumers. These results flow directly from the fact that, somewhat paradoxically, the KCC designed its restriction expressly to deny funding intended for the provision, maintenance, and upgrading of supported services and facilities in certain portions of a CETC's designated service area.

The KCC recognizes that "although [SWBT] serves many areas that are unquestionably rural in character, it is not eligible under the FCC's regulations" for federal support from the HCM mechanism because SWBT's "costs per line must be averaged over both its rural and urban areas."³¹ But SWBT's ineligibility for HCM funding in the putatively "non-rural" areas it serves in Kansas does not mean that these areas are not "rural" and "high cost areas" as described by Section 254(c) of the Act. The KCC concedes as much by noting the unquestionably rural character of areas of the state that are served by SWBT and also served by CETCs such as Alltel.³² It is beyond doubt that the "more rural, lesser-populated areas of SWBT's service area, like those of rural ILECs are more expensive to serve than more urban service areas."³³ In Kansas, "64 of SWBT's wire centers have costs at least twice as high as the weighted statewide average, 36 wire centers are at least three times costlier than the average, 10

³¹ Petition at 2. As a non-rural carrier, SWBT's eligibility for HCM support is based on an analysis of its proffered forward-looking economic costs averaged across all of its wire centers in the State of Kansas, followed by a comparison of that statewide average to the nationwide per-line cost benchmarks reported by other non-rural carriers. *See* 47 C.F.R. § 54.309(a)-(b).

³² *See* Mowery Direct Testimony at 4.

³³ *Id.* at 5. Mr. Mowery's testimony also explained that the average population density per square mile in Kansas is 33, compared to an average population density throughout the United States of 80 people per square mile. Kansas is therefore a rural and relatively sparsely populated state on the whole when compared to the U.S. average. Of the 110 Kansas wire centers served by SWBT that are part of Alltel's designated CETC service area, 39 of these have a population density of less than 10 people per square mile, and 76 of these wire centers have a population density of less than 33 people per square mile – the Kansas state average. Only 22 of these 110 wire centers have a population density greater than the national average of 80, demonstrating quite clearly the typically rural nature of the SWBT wire centers included in Alltel's CETC designated service area in Kansas. *See id.* at 7.

are at least five times costlier, and one has costs at least ten times higher than the statewide average.”³⁴

Alltel and other wireless CETCs receive support on the basis of their subscribers’ billing addresses,³⁵ with disbursements based on the number of lines a CETC reports in study areas in which the ILEC receives high-cost support. Yet an Alltel subscriber that lives in a territory served by a rural ILEC might very well drive to work, school, or other locations within a “non-rural” area – meaning a geographic area that could be just as rural as the area in which that subscriber resides, but that happens to be served by SWBT and therefore “labeled” as non-rural. Thus, Alltel’s high cost support revenues certainly can be said to be used for the provision of service to customers residing in rural ILEC service areas, even when these funds are invested in networks located in SWBT wireline territory.

Mobility is one of the chief benefits of any wireless carrier’s service offering, which uses a platform capable of providing several unique and valuable features and functions in addition to voice services readily substituted for wireline voice offerings provided over legacy copper networks. The KCC’s certification procedure denies the benefits of mobility to such individuals based on nothing more than the accident of which ILEC operates in the community or region in which the subscriber works: robust wireless services will likely be available in the rural carrier’s incumbent service territory, but a wireless CETC such as Alltel will not be able to deploy or maintain facilities in SWBT’s service territory.

Subscribers that live in a “non-rural” area but cross over into rural ILEC territories will face the converse problem – unable to obtain the same high level of service at home, but able to benefit from the wireless CETCs’ expenditure of high-cost funds to expand and improve upon

³⁴ Joint Petition for Reconsideration of USCOC of Nebraska/Kansas, LLC and RCC Minnesota, Inc., Docket No. 07-GIMT-498-GIT, at 21 (filed Aug. 28, 2007) (emphasis in original).

³⁵ See 47 C.F.R. § 54.307(b).

the services available in an area classified as rural based on the identity of the incumbent. It is difficult to understand how consumers benefit from a system that would restrict investment by wireless CETCs in unquestionably rural areas – especially when such carriers are capable of providing commuters and travelers with standard mobility benefits and with basic and enhanced 911 service capabilities so critical to promoting and protecting public safety and welfare.

The absurd nature of this outcome is further highlighted by the fact that a sale or transfer of any rural or non-rural exchange to a wireline carrier in the other camp (in the frequent cases where the FCC grants waivers of § 54.305 of the rules) could instantly transform the area from one eligible for wireless CETC investment into one ineligible for the provision of supported services – again depending entirely on the identity of the wireline provider, and again ignoring the CETC’s obligation to provide service throughout its entire designated service area rather than on a wireline-centric, study area basis. Furthermore, consumers in Kansas will not pay less in terms of federal universal service contributions as a result of the KCC’s certification procedure. Consumers in non-rural areas will pay the same amount into the fund, but will be deprived of the benefits of any supported CETC investment in their areas by CETCs forced to comply with the KCC’s rule.

Finally, the contention that competitive neutrality necessitates disallowing CETCs from expending universal service funds to serve areas in SWBT territory is plainly preposterous. This pretense stands the competitive neutrality principle on its head: it ignores the fact that neutrality is intended to foster competition, not restrict it, and also ignores SWBT’s historical and continued receipt both of implicit subsidies and considerable explicit support. SWBT has provided and continues to provide service in admittedly rural areas of Kansas, thanks in no small part to the ILEC’s receipt of significant implicit subsidies (in the form of cross-subsidization

from SWBT's low-cost areas within the state),³⁶ and with significant disbursements from the Kansas universal service fund (to the tune of several hundred million dollars paid to SWBT over the past decade) as well as from the federal IAS mechanism.³⁷

As Alltel explained in the proceedings before the KCC, the competitive neutrality principle should not be invoked to protect dominant carriers from competition. That principle should instead promote competition for the benefit of consumers in “all regions of the Nation,”³⁸ including areas served by giant ILECs such as AT&T. The FCC should not countenance the misuse of competitive neutrality principles to limit or foreclose investment by CETCs, and thereby to protect incumbents, because such a practice would frustrate the fulfillment of the FCC's twin universal service and pro-competition goals.³⁹

III. The FCC Should Dismiss the Petition as Untimely in Light of the Pending Federal Universal Service Reform Proceedings and the Recent CETC Interim Cap Order.

While there is ample reason to deny the Petition on the merits, the FCC also should dismiss the Petition as untimely for two reasons: because the KCC has not denied funding to Alltel any other CETC (as far as we know) on the basis of the certification form at issue; and because the KCC's procedures implicate the analysis and allocation of the “actual costs” of mobile wireless networks – a matter under active review in the *Identical Support NPRM* and other pending FCC proceedings. The FCC cannot and should not rule on this Petition by

³⁶ SWBT's position as an entrenched incumbent and virtual monopoly in urban areas such as Wichita and Kansas City has allowed it to cross-subsidize its services in its “non-rural” study areas – following a business model not available to a CETC such as Alltel that operates in a competitive market.

³⁷ The Universal Service Administrative Company's most recent projections for 2008 indicate that SWBT will receive approximately \$520,014 from the IAS mechanism for 2008. See Appendix HC12, Interstate Access Support Projected by State by Study Area, Third Quarter 2008, available at <http://www.usac.org/about/governance/fcc-filings/2008/quarter-3.aspx>. SWBT received in excess of \$237 million from the Kansas state universal service fund from 1997 to 2006, with nearly \$8 million more due to the ILEC each year through 2010. See Kansas Universal Service Fund (KUSF) Support Paid to Carriers (3/1/1997 to 2/28/2007), available at <http://www.kcc.state.ks.us/telecom/kusfcomm2.htm>.

³⁸ 47 U.S.C. § 254(b)(3).

³⁹ See, e.g., *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 615 (5th Cir. 2000) (“The FCC must see to it that **both** universal service and local competition are realized; one cannot be sacrificed in favor of the other.”) (emphasis in original).

rendering a decision when the KCC's procedure has not yet been invoked or applied so as to impermissibly deny funding to any CETC. Moreover, the FCC should not issue any piecemeal decision on the narrow issue raised in the Petition because such a determination would interfere with the FCC's ability to adopt broader, comprehensive reforms for the high-cost universal service program.

As noted above, SWBT receives federal support from the IAS mechanism in the majority of SWBT wire centers in which Alltel is a CETC. The fact that SWBT receives IAS dollars, which some characterize as replacement funding for non-rural carriers' purported interstate access revenue needs,⁴⁰ highlights the uncertainties underlying the current administration of universal service mechanisms for wireless CETCs such as Alltel. For one, the KCC is not authorized to certify ETCs' use of these putatively interstate funds. Wireless CETCs can and do account for their costs and expenditures made using funds from the various mechanisms in order to provide, maintain, and upgrade supported facilities and services, and must self-certify their use of funds to the FCC with respect to the IAS and ICLS mechanisms.⁴¹ The FCC, however, has never "regulated the manner in which non-dominant carriers record their costs and revenues" or required wireless CETCs to "separate network components in a similar manner" to ILECs – *e.g.*, separately "for non-rural service areas [and] for rural service areas" or for interstate versus intrastate jurisdictions.⁴² The KCC's certification procedure, however, attempts impermissibly to shape or dictate the accounting systems and supported service offerings of wireless CETCs.

⁴⁰ See, *e.g.*, *Identical Support NPRM* ¶ 23.

⁴¹ 47 C.F.R. §§ 54.809, 54.904; see *CALLS Order* ¶ 332; *Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 19613, ¶ 176 (2001) ("*MAG Order*").

⁴² *Identical Support NPRM* ¶ 15 (recognizing that no such requirements exist and seeking comment on whether to impose them).

The KCC clearly has no authority to establish its own cost allocation methodology applicable to wireless carriers only within the State of Kansas.

The FCC cannot condone the KCC's attempt to strike out on such an unlawful course, but it would be especially imprudent to allow such detours – or even to render a decision myopically focused on a single state – at the very moment that the FCC is wrestling with these same CETC cost allocation and measurement issues in its *Identical Support NPRM* and *Joint Board NPRM* proceedings. The uncertainty surrounding the implementation of the recently adopted *CETC Cap Order*⁴³ makes a decision on the Petition even less propitious at this time, as CETCs adjusting to the workings of the interim cap and the new universal service landscape established in that decision will need time to recalibrate their funding expectations and expenditure planning in its wake.

Deciding the question presented in the Petition would make for quintessential piecemeal decision-making, delaying and distracting the FCC from the urgent task of adopting comprehensive high-cost fund reforms in the collective *Reform Notices* proceedings.⁴⁴ With the transformative proposals currently under consideration by the Commission – including the proposals recommended in the *Joint Board NPRM*, *Identical Support NPRM*, and *Auctions NPRM*, as well as those put forward by Alltel, Sprint Nextel, AT&T, and others – there is neither any urgency to nor basis for deciding the KCC's Petition on the merits. This is especially apparent where the procedures outlined in the Petition could be superseded by the adoption of comprehensive reforms or restructuring of the high-cost portion of the fund, and where application of the KCC certification procedure will not necessarily affect the amount of support distributed to Kansas CETCs but only the areas where CETCs may invest those funds.

⁴³ See *CETC Cap Order* ¶ 1.

⁴⁴ See *supra* notes 4 and 5 and accompanying text.

The FCC should remain focused on the big picture here, and on critically needed reforms to the entire system for disbursing high-cost support to ILECs and CETCs alike – not on micro-level implementation issues for funding mechanisms that nearly all parties agree are in dire need of an overhaul. For these reasons, the FCC should dismiss the Petition as unripe or untimely, reserving judgment on the narrow question presented in the Petition until such time as the FCC adopts long-contemplated and promised comprehensive reforms to the high-cost program that may moot the KCC’s request for a declaratory ruling.

CONCLUSION

For the reasons articulated herein, the FCC should – if it proceeds to the merits of the Petition – find the KCC’s certification procedure unlawful under provisions of the Act and the FCC’s rules that require ETCs to provide supported service and facilities throughout their entire designated service areas. The FCC also should dismiss the Petition as untimely in light of recent changes in the administration of the high-cost portion of the federal fund, as well as even greater changes that should come about as the result of the pending universal service reform proceedings initiated by the FCC earlier this year.

Respectfully submitted,

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June 2, 2008

Exhibit A

**Direct Testimony of Steve Mowery on Behalf of Alltel Kansas Limited Partnership
KCC Docket No. 07-GIMT-498-GIT (submitted May 4, 2007)**

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

STATE CORPORATION COMMISSION

Before Commissioners: Brian J. Moline, Chair
 Robert E. Krehbiel
 Michael C. Moffet

MAY 04 2007

 Docket
Room

In the Matter of Review of the Commission's Federal)
USF Certification Requirement to Remove All)
Expenses and Investments by Competitive Eligible)
Telecommunications Carriers in Southwestern Bell)
Telephone, L.P., Study Area from the Competitive)
Eligible Telecommunications Carrier's Justification of)
Use of High Cost Federal USF Support)

Docket No. 07-GIMT-498-GIT

**DIRECT TESTIMONY OF
STEVE MOWERY
ON BEHALF OF**

ALLTEL KANSAS LIMITED PARTNERSHIP

May 4, 2007

DIRECT TESTIMONY OF STEVE MOWERY

Q. Please state your name and business address.

A. My name is Steve Mowery. My business address is One Allied Drive, Little Rock, Arkansas 72202.

Q. By whom are you employed and in what capacity?

A. I am employed by Alltel Communications, Inc. as Vice President – Public Policy. I am testifying in this proceeding on behalf of Alltel Kansas Limited Partnership, a division of Alltel Communications, Inc. (“Alltel”).

Q. Please describe your experience with Alltel and in the telecommunications industry.

A. I began my telecommunications career in 1978 with Allied Telephone Company, a predecessor of Alltel, as an accountant. I have served in various managerial positions for Alltel’s wireline and wireless operations in accounting, revenue requirements, regulatory and government affairs over the last 28 years and have served on various industry committees and boards. My present responsibilities as Vice President – Public Policy include the management of state and federal public policy matters for Alltel’s wireless communications subsidiaries.

Q. What is the purpose of your testimony in this proceeding?

A. The Commission opened this proceeding to determine whether or not Competitive Eligible Telecommunications Carriers (CETCs) should be prohibited from using federal universal service support in those portions of their designated Eligible

1 Telecommunications Carrier (ETC) service areas where wireline service is
2 provided by Southwestern Bell Telephone L.P. (SWBT). Briefs and reply briefs
3 were filed by numerous parties in this proceeding to address legal requirements
4 related to this issue. Alltel and other parties have demonstrated in those briefs
5 that there is no legal basis to restrict the use of federal universal service funds to
6 only a portion of a CETC's designated service area. A proposal to restrict the use
7 of federal universal service funds in this manner is not only contrary to existing
8 law, but it is also contrary to sound public policy. My testimony will not revisit
9 the legal issues, but will focus on the policy issues that surround this matter. In
10 this testimony I will demonstrate why sound public policy dictates that the
11 Commission not preclude the use and associated consumer benefits of universal
12 service funds in the high costs areas where wireline services are provided by
13 SWBT.

14 **PURPOSE OF THE FUND**

15 **Q. What is the purpose of the federal universal service fund?**

16 **A.** Congress specified the purpose of federal universal service support when it passed
17 universal service legislation in 1996. The Telecommunications Act of 1996 (Act)
18 provides that

19 Consumers in all regions of the Nation; including low-income
20 consumers and those in rural, insular, and high-cost areas, should
21 have access to telecommunications and information services,
22 including interexchange services and advanced
23 telecommunications and information services, that are reasonably
24 comparable to those services provided in urban areas and that are
25 available at rates that are reasonably comparable to rates charged
26 for similar services in urban areas.¹
27

1 **Q. What would be the impact of limiting the use of federal universal service**
2 **funds in Kansas to only a portion of the CETC's designated service area?**

3 **A.** Denying consumers in high costs areas served by SWBT the benefit of federal USF
4 by prohibiting a CETC from using federal universal service support in those
5 portions of its designated ETC area would violate the intent of Congress to provide
6 consumers in *all* regions with service and prices that are reasonably comparable to
7 services and prices in urban areas. Consumers in rural areas should not be denied
8 the benefits of a CETCs designation in their area simply because SWBT provides
9 wireline service in that area. SWBT receives support from implicit subsidies and
10 explicit subsidies like the Interstate Access Support (IAS) mechanism of the
11 federal universal service fund and the Kansas Universal Service Fund (KUSF).
12 This is not sound public policy and clearly is not what Congress intended.

13 **Q. Staff submits on page 3 of its reply brief that it is not competitively neutral to**
14 **allow an ETC to spend high cost support received in areas where incumbents**
15 **do not receive high cost support. Do you agree with that assertion?**

16 **A.** No, I do not. Without universal service support, networks in rural areas, where
17 customer densities are low and the cost to serve a given customer is high, would
18 never be constructed. The network of SWBT in these areas was built and is
19 maintained by receipt of implicit support, such as access charges and statewide
20 averaging of retail and toll rates and costs that were implemented during the
21 monopoly era of telecommunications, as well as with the assistance of explicit
22 support including federal IAS funds and state KUSF funds. These implicit

¹ 47 U.S.C. Section 254(b)(3)

1 subsidies were sound public policy that allowed the rural networks of ILECs to be
2 built to serve consumers that did not reside in urban areas. Implicit subsidies
3 represented an ideal vehicle to provide for universal service in a monopoly
4 environment. Such implicit subsidies are not sustainable in a competitive market.
5 In today's competitive market CETCs also need support to enable the expansion
6 of networks in order to provide comparable services and rates to consumers in
7 non-urban settings, just as the ILECs required when their networks were
8 constructed. Kansas consumers are the beneficiaries of these network expansions
9 and upgrades.

10 **Q. Do the more rural, lesser populated areas of SWBT's wireline area exhibit the**
11 **characteristics of high cost areas for CETCs like Alltel and if so does SWBT**
12 **receive explicit USF?**

13 **A.** The answer to both of these questions is yes. The more rural, lesser-populated
14 areas of SWBT's service area, like those of rural ILECs are more expensive to
15 serve than more urban service areas. Under existing universal service rules,
16 SWBT's ability to receive high cost support for its service area is generally
17 determined based on SWBT's average statewide costs rather than at the wire
18 center level. Because of this, SWBT does not presently receive High Cost Model
19 (HCM) support in Kansas. However, SWBT does receive Interstate Access
20 Support (IAS) from the high cost portion of the federal universal service fund in
21 86 of the 110 wire centers where Alltel has been designated as an ETC in Kansas.
22 Alltel's designated service area includes part of SWBT's service area, but not all
23 of it.

1 **Q. Are you saying that SWBT does serve high cost areas in Kansas?**

2 **A.** Yes, I am. This is affirmed in several ways. First, SWBT receives explicit
3 support through the receipt of IAS funds in many of its Kansas wire centers. IAS
4 is part of the high cost fund portion of the federal universal service fund. Second,
5 SWBT receives explicit support from the KUSF. The receipt of IAS and KUSF
6 funds by SWBT show that SWBT does serve high cost areas in Kansas. Third,
7 population density factors confirm that many of SWBT's Kansas wire centers are
8 indeed high cost. RCC and USCOC provide evidence of this in their prehearing
9 brief in paragraph 28. RCC and USCOC point out that AT&T (formerly SWBT)
10 has even made this very argument in proceedings at the FCC. RCC and USCOC
11 also provide convincing information regarding the population densities of these
12 areas in SWBT's designated service area.

13 **Q. Is it reasonable to say that SWBT would be competitively disadvantaged if**
14 **CETCs are permitted to use federal universal support throughout the**
15 **CETC's ETC designated service area, including SWBT wire centers?**

16 **A.** Certainly not. SWBT has constructed its network in rural Kansas with the
17 assistance of both implicit and explicit support, including IAS funding from the
18 federal universal service fund and support from the KUSF. To deny CETCs the
19 ability to use their federal universal service support in the portions of their
20 designated ETC service areas served by SWBT would not only be unjustified, but
21 would also serve to harm consumers in a misguided attempt to protect SWBT
22 from competitors.

1 **Q. Do you have any additional information to support the statement that SWBT**
2 **does serve high cost areas in Kansas?**

3 **A.** Yes. I have done some additional research into the population densities of SWBT
4 wire centers in Alltel's designated ETC service area in Kansas. According to U.S.
5 Census information from the year 2000, the average population density per square
6 mile in the United States is 80 and the average population density per square mile
7 in Kansas is 33. This clearly demonstrates that Kansas is a rural state when
8 compared to the U.S. average. Next I looked at the population densities per square
9 mile in the SWBT wire centers where Alltel has been designated as an ETC. (*See*
10 *Attachment I for a list of these wire centers and population densities.*) The results
11 of this analysis are quite telling. Of the 110 SWBT wire centers that are part of
12 Alltel's designated ETC service area, 39 have a population density of less than 10
13 people per square mile, 76 have a population density of less than 33 (the Kansas
14 state average), and 88 of them have a population density of less than 80 (the
15 national average). Only 22 of these 110 wire centers have a population density
16 greater than the national average of 80. This clearly demonstrates the rural nature
17 of the SWBT wire centers served by Alltel in its capacity as a CETC.

18 **Q. Will CETCs be able to provide Kansas consumers in SWBT's low population**
19 **density wire centers with reasonably comparable services and rates without**
20 **federal universal service support?**

21 **A.** No. CETCs cannot economically implement the introduction and expansion of
22 comparable services at comparable rates for these more rural areas without using
23 federal universal service support as contemplated by the Act. Once again, it is

1 consumers who are denied the benefits of mobility, enhanced public safety and
2 competitive choice if a prohibition on use of universal service funds in portions of
3 a CETCs designated service area is imposed. These areas are unquestionably
4 rural and high cost and, like the other rural areas in Kansas served by ILECs other
5 than SWBT, need and deserve explicit support in order to provide consumers with
6 the comparable services and rates that other more urban consumers enjoy.

7 **Q. Do CETCs like Alltel have any obligation to extend their networks into the**
8 **non-urban areas of SWBT's wireline service area?**

9 **A.** Yes. 47 U.S.C. Section 214(e)(1) requires an ETC to offer and advertise the
10 services supported by the federal universal service fund "throughout the service
11 area for which the designation is received." There is no exception provided for
12 any portion of an ETCs designated service area. Alltel was designated as an ETC
13 for federal universal service support in Kansas by Order of the Commission in
14 Docket No. 04-ALKT-283-ETC issued on September 24, 2004. Alltel's
15 designated service area includes the ILEC wire centers of SWBT as noted in the
16 Order in Attachment A. Alltel and other CETCs have committed to use universal
17 service support received to benefit consumers throughout their designated service
18 areas -- regardless of the identity, size or financial standing of the incumbent
19 wireline provider. This commitment serves to benefit the citizens of Kansas who
20 live and work in the high cost areas served by SWBT. It is a contradiction for the
21 Commission to designate an ETC for an area and yet not allow the CETC to
22 invest ETC funds in that area.

1 **Q. Staff points out in paragraph 8 of Staff's reply brief that Section 214(e)(5)**
2 **defines service area as a geographic area established by a state commission**
3 **and that it "is the KCC, rather than the competitive ETC, that determines**
4 **service areas....". Did the commission approve the designation of Alltel in**
5 **portions of the SWBT service area?**

6 A. Yes. In its Kansas ETC designation petition (04-ALKT-283-ETC), Alltel
7 identified the service area for which it sought to be designated as an ETC and the
8 Commission specifically approved Alltel's designated ETC service area in that
9 proceeding. The Commission therefore determined that Alltel should be a CETC
10 in portions of the SWBT service area (110 wire centers) and therefore has
11 authorized Alltel to benefit customers in that area by the expenditure of ETC
12 funds to improve and expand wireless services.

13 **Q. How many designated ETC service areas or study areas does Alltel have in**
14 **Kansas?**

15 A. Alltel has one designated service area or study area in Kansas. This service area
16 was established when the Commission designated Alltel as an ETC for federal
17 universal service in Docket No. 04-ALKT-283-ETC. Subsequent to this
18 designation, the Universal Service Administrative Company (USAC) assigned
19 Alltel the study area code of 419905 for its designated service area in Kansas.
20 USAC disburses support to Alltel for Kansas as a single amount under this study
21 area code. There are not separate payments to Alltel for each of the ILEC study
22 areas that are part of Alltel's service area because Alltel has its own study area.

- 1 • the availability of faster service activation with the potential avoidance of
- 2 ILEC line extension charges;
- 3 • the availability of state-of-the-art network technology and customer
- 4 equipment that provides access to both voice and high-speed data services.

5

6 If CETCs are not precluded from using universal service support in designated

7 service areas that are served on a wireline basis by SWBT, then consumers in rural

8 portions of the SWBT ILEC service area will also enjoy the same benefits as

9 consumers in other parts of Kansas and other states. If the Commission orders

10 that the use of these funds are to be restricted for use only in the portion of the

11 CETC's designated service area not served on a wireline basis by SWBT, then

12 potential wireless consumers who happen to reside in SWBT wireline service areas

13 will be denied these benefits. I do not believe that this result represents sound

14 public policy. As noted earlier in my testimony, Congress provided that the

15 purpose of the universal service fund is to provide consumers in *all* regions with

16 service and prices that are reasonably comparable to services and prices in urban

17 areas. Congress did not say that these benefits were to be limited to wireless

18 consumers who don't happen to reside in the ILEC area served by SWBT.

19

20 **Q. Who benefits from the restriction on the investment of universal service**

21 **funds?**

22 **A.** The only real beneficiaries of such a restriction on the use of federal universal

23 service funds are those entities, like SWBT, that seek to deter competition and

1 prevent investment in rural/high-cost areas throughout Kansas by competitors.
2 The citizens of Kansas who live in high-cost/rural areas served by SWBT certainly
3 do not benefit from the restriction. It is clearly in the best interest of Kansas
4 consumers to maximize the application and use of federal funds throughout Kansas
5 in order to provide Kansas consumers who live and work in rural areas with a true
6 choice of communications providers and services – similar to the choices enjoyed
7 by those living in the urban areas of the country. Unfortunately, choice for Kansas
8 consumers is only possible through the continued use of universal service support
9 in all areas of Kansas that have been designated as ETC service areas. Improved
10 wireless service in rural areas means real choice for consumers and therefore
11 competitive pricing and more services.

12 **Q Can you provide an example of the value and need for such use of ETC funds**
13 **in Alltel's ETC designated service areas where SWBT provides wireline**
14 **service?**

15 **A** Yes. Alltel received a letter from a consumer in Nickerson, Kansas in November
16 2006. Nickerson is a SWBT wire center with a population density of 20 people
17 per square mile. By any definition, Nickerson is a rural community. The letter
18 requested improved wireless service for the area. Alltel could consider the
19 addition of a cell site to better serve this rural community by using federal
20 universal service support to help construct and operate the site. However, if
21 universal service support is not available for this purpose, simply because the
22 wireline provider is SWBT, this site will likely not be constructed. The costs to
23 construct and operate a site in such a low-density area without support would be

1 economically infeasible. I do not see how anyone could explain to a consumer that
2 it is sound public policy to prevent a CETC from using the universal service
3 support it receives to improve wireless service in its designated ETC service area
4 simply because SWBT provides the wireline service in his or her wire center. It is
5 not good public policy to prevent consumers in portions of Kansas from receiving
6 the benefits that similarly situated consumers in the rest of the country enjoy.

7 **Q. Will the decision in this proceeding have any impact on what Kansas**
8 **consumers pay in to the federal universal service fund?**

9 **A.** No. Kansas consumers will pay the same amount in to the federal universal service
10 fund regardless of the Commission's determination in this proceeding. This
11 proceeding does not impact the amount of support paid into the fund, but only
12 where that support can be used to benefit consumers. Consumers in the portions of
13 CETC designated service areas that are provided wireline service by SWBT will
14 pay the same amount either way. The only question is whether or not they will
15 receive the benefits they need and deserve.

16
17 **OTHER STATES**

18
19 **Q. Does Alltel have ETC status in other states?**

20
21 **A.** Yes. Alltel has been designated as an ETC in 28 states. Alltel has been designated
22 as an ETC by the FCC in Alabama, Florida, Georgia, North Carolina, Virginia,
23 Wyoming, and the Pine Ridge Indian reservation in South Dakota, and by state
24 commissions in Arkansas, California, Colorado, Florida, Iowa, Idaho, Kansas,
25 Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, North Dakota,

1 New Mexico, Nevada, Oklahoma, South Dakota, Texas, Utah, Wisconsin, West
2 Virginia and Wyoming.

3 **Q. Have any of these state commissions or the FCC adopted restrictions that**
4 **prevent Alltel from using federal universal service support throughout their**
5 **designated ETC service area?**

6 **A.** No, they have not.

7 **Q. Has the FCC required such a restriction in any other proceeding?**

8 **A.** No. In fact, in its Universal Service Order², the FCC established annual reporting
9 requirements that include the reporting of the *total* amount of federal high cost
10 universal service support received by an ETC and how that support was used to
11 provide and improve service in *each wire center comprising its designated service*
12 *area.* (See 47 U.S.C. Section 54.209(a)(1)) The FCC rules do not make any
13 provision to exclude wire centers for which the ETC does not receive any support.
14 This clearly demonstrates that the FCC did not intend to require the kind of
15 limitation that the existing Kansas requirement includes. This is further evidenced
16 by the information provided by RCC and USCOC in their prehearing brief in
17 paragraph's 19 and 20.

18
19 **CONCLUSION**
20

21 **Q. Mr. Mowery, would you please summarize your testimony?**

² In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, released March 17, 2005, FCC 05-26. (Universal Service Order)

1 **A.** In my testimony, I have demonstrated that sound public policy dictates that the
2 Commission reverse the Kansas requirement to prevent the use of CETC universal
3 service support in portions of the CETC's designated service area that are
4 provided wireline service by SWBT. While the briefs filed by Alltel, Sprint,
5 RCC and USCOC in this proceeding provide the legal analysis to demonstrate that
6 the Commission is not required, and is in fact prohibited, from requiring such a
7 limitation, I have provided the reasons why the Commission would not want to
8 continue such a requirement even if it could. I have shown that consumers would
9 be deprived of the universal service benefits they need and deserve by such a
10 limitation, even though they would continue to pay the same level of support into
11 the federal universal service fund. I have also demonstrated that other state
12 commissions do not impose such a restriction and that the FCC in fact requires
13 just the opposite by requiring ETCs to show how universal service support funds
14 are used *throughout the entire service area* of the ETC.

15 **Q.** **Does this conclude your direct testimony?**

16 **A.** **Yes.**

17
18
19
20

State	CLLI_Code	Wirecenter_Name	2006 Pops	Area SQMI	Density
KS	ABLNKSCD	ABILENE	9173	108.767	84.33
KS	ALMEKSMA	ALMENA	696	124.804	5.58
KS	ANDLKSHI	ANDALE	1756	52.579	33.39
KS	ANTHKSWS	ANTHONY	2840	206.627	13.74
KS	ARCYKSSO	AR CITY	16785	257.212	65.26
KS	ATTCKSAA	ATTICA	936	154.815	6.05
KS	BLVLKSMS	BELLEVILLE	2738	106.608	25.68
KS	BELTS02	BELOIT	4806	264.778	18.15
KS	BRCYKSRE	BIRD CITY	707	290.96	2.43
KS	BCKLKSSM	BUCKLIN	981	164.79	5.95
KS	CANYKS05	CANEY	2608	44.451	58.66
KS	CNTNKSSM	CANTON	1416	84.608	16.74
KS	CDVAKSPL	CEDAR VALE	1053	206.123	5.11
KS	CHNTKSSS	CHANUTE	11411	179.691	63.51
KS	CPMNK04	CHAPMAN	1870	61.41	30.45
KS	CHASKSWE	CHASE	783	97.995	7.99
KS	CHNYKSKI	CHENEY	3226	130.85	24.66
KS	CHVAKSEM	CHERRYVALE	3519	99.883	35.24
KS	CHTPKSBE	CHETOPA	1557	36.248	42.95
KS	CLCTKS06	CLAY CTR	5657	198.844	28.45
KS	CFVLKSDE	COFFEYVILLE	1249	29.399	42.47
KS	CLBYKS05	COLBY	6826	473.407	14.42
KS	CDWRKSLU	COLDWATER	1062	385.9	2.75
KS	CNCRKSBR	CONCORDIA	6936	271.264	25.57
KS	CTFLKSBR	COTTONWOOD FLS	2159	258.43	8.36
KS	DDCYKS01	DODGE CITY	29750	507.257	58.65
KS	ELWOKSNO	ELLSWORTH	4577	357.731	12.79
KS	EMPRKS08	EMPORIA	31213	345.995	90.21
KS	ERIEKSCI	ERIE	1944	96.483	20.15
KS	EURKKSEL	EUREKA	4043	342.645	11.80
KS	FLRNKSTR	FLORENCE	832	70.012	11.89
KS	FWLRKSMI	FOWLER	854	190.702	4.48
KS	FRFTKSLO	FRANKFORT	1311	165.418	7.93
KS	FTSCK01	FT SCOTT	11628	178.83	65.02
KS	GRCYKS07	GDN CITY	36706	590.789	62.13
KS	GRDPKSLE	GDN PLAIN	1858	38.851	47.81
KS	WCHTKSGM	GODDARD	6301	76.158	82.73
KS	GDLDKSAB	GOODLAND	6177	683.671	9.03
KS	GRTBKSSST	GREAT BEND	18889	210.844	89.59
KS	GNBGKSFL	GREENSBURG	1969	331.73	5.94
KS	GYPKSOW	GYP SUM	1150	113.507	10.13
KS	HLSTKSTE	HALSTEAD	2705	87.674	30.86
KS	HMTNKS01	HAMILTON	660	160.166	4.12

KS	HNVRKSED	HANOVER	1468	178.065	8.24
KS	HRPRKSMA	HARPER	2205	225.568	9.78
KS	HRFRKSAA	HARTFORD	896	84.495	10.61
KS	HAYSKS11	HAYS	23280	460.917	50.51
KS	HNTNKSNA	HERINGTON	2939	65.785	44.68
KS	HLCMK SMA	HOLCOMB	4010	517.366	7.75
KS	HWRDKSWA	HOWARD	1158	203.153	5.70
KS	HOXIKSTR	HOXIE	1810	314.182	5.76
KS	HMBLK SBR	HUMBOLDT	2825	110.214	25.63
KS	HTSNKS02	HUTCHINSON	52637	248.937	211.45
KS	INDPKSMA	INDEPENDENCE	13118	154.407	84.96
KS	IOLAKSSY	IOLA	8611	122.399	70.35
KS	JEWLKSHA	JEWELL	692	100.421	6.89
KS	KGMNKSMA	KINGMAN	4981	350.266	14.22
KS	KNSLK SNI	KINSLEY	2473	386.178	6.40
KS	LACRKSEL	LA CROSSE	1610	124.671	12.91
KS	LRNDK SBR	LARNED	5968	318.896	18.71
KS	LNCLKSLI	LINCOLN	1831	203.375	9.00
KS	LNBGKSLI	LINDSBORG	4036	121.552	33.20
KS	LYNSKSEA	LYONS	4484	178.439	25.13
KS	MNHTKSFA	MANHATTAN	54076	275.218	196.48
KS	MNKT KSCO	MANKATO	1245	147.379	8.45
KS	MARNKSLA	MARION	3106	165.3	18.79
KS	MARNKSLA	MARION	3106	165.3	18.79
KS	MRQTKSKJ	MARQUETTE	1037	156.765	6.62
KS	MYVIKSEL	MARYSVILLE	3961	104.664	37.84
KS	MCSNKSAS	MCPHERSON	15470	122.869	125.91
KS	MEADKSSL	MEADE	2213	421.909	5.25
KS	MDLDKS01	MEDICINE LODGE	2606	397.617	6.55
KS	MPLSKS02	MINNEAPOLIS	2678	189.746	14.12
KS	MNNLKSTU	MINNEOLA	1097	343.729	3.19
KS	MOLNKSMI	MOLINE	716	115.44	6.20
KS	MTHPKS04	MT HOPE	1235	43.706	28.27
KS	NDSHKS04	NEODESHA	3899	104.872	37.18
KS	NWTNKS05	NEWTON	21180	144.951	146.12
KS	NCSNKSHA	NICKERSON	1959	97.426	20.11
KS	NRTNKS LI	NORTON	4858	539.33	9.01
KS	OKLYKS03	OAKLEY	2834	556.833	5.09
KS	OTWAKSMA	OTTAWA	15034	159.849	94.05
KS	PAOLKSPE	PAOLA	9136	123.577	73.93
KS	PRSSKSWA	PARSONS	14161	206.512	68.57
KS	PWRKKS YU	PAWNEE ROCK	906	135.188	6.70
KS	PBDYKSWA	PEABODY	1824	94.513	19.30
KS	PHBGKS04	PHILLIPSBURG	3945	350.293	11.26
KS	PSBGKSLO	PITTSBURG	26744	139.322	191.96
KS	PLVLKSMI	PLAINVILLE	2568	220.737	11.63
KS	PRTTKSNI	PRATT	7835	239.801	32.67
KS	PRTCKSMA	PROTECTION	766	262.526	2.92

KS	SBTHKSVI	SABETHA	3500	121.56	28.79
KS	SALNKSTA	SALINA	49934	268.3	186.11
KS	SCNDKSFE	SCANDIA	701	91.244	7.69
KS	SCCYKSMA	SCOTT CITY	5152	793.756	6.49
KS	SEDNKSCH	SEDAN	2536	219.305	11.57
KS	WCHTKSCZ	SEDGWICK	2480	39.474	62.83
KS	SENCKSDE	SENECA	4663	278.667	16.73
KS	SVRYKSRE	SEVERY	700	111.516	8.28
KS	SMCTKSMA	SMITH CTR	2206	126.815	17.39
KS	SLMNKSOL	SOLOMON	1427	72.894	19.58
KS	STPLKSHI	ST PAUL	1160	77.292	15.01
KS	STFRKSBO	STAFFORD	1633	210.173	7.77
KS	SKTNKSAS	STOCKTON	1953	286.201	6.83
KS	SBLTKSOR	SUBLETTE	2455	347.505	7.07
KS	WASHKS03	WASHINGTON	1744	129.654	13.45
KS	WTVLKSST	WATERVILLE	2448	210.075	11.65
KS	WGTNKSNF	WELLINGTON	9553	140.393	68.04
KS	WNFDKSMI	WINFIELD	15154	252.336	60.06
KS	YTCTKSST	YATES CTR	2337	249.624	9.36
KS		TOTAL SWBT / ALLTEL	718285	23360.35	30.75

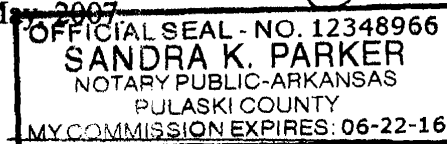
STATE OF ARKANSAS)
)
COUNTY OF PULASKI) ss.

VERIFICATION

Comes now Steve Mowery, being of lawful age and duly sworn, and states that he has read the foregoing direct testimony, and that it is true and correct to the best of his knowledge and belief.

Steve Mowery

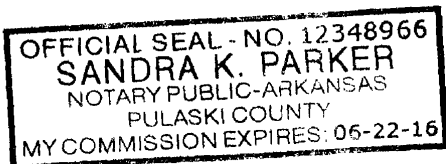
Sworn to and subscribed before me this 3rd day of May, 2007.



Notary Public

Sandra K Parker

My commission expires

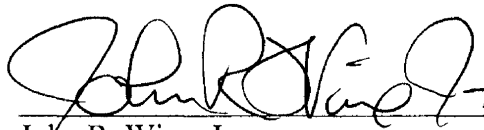


CERTIFICATE OF SERVICE

I hereby certify that the original and seven copies of the Direct Testimony of Steve Mowery were served on May 4, 2007, by making hand delivery to:

Susan K. Duffy
Executive Director
Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, Kansas 66604

And that pursuant to the Order Setting Procedural Schedule a copy of the testimony was served electronically to the parties of record.

A handwritten signature in black ink, appearing to read "John R. Wine, Jr.", written over a horizontal line.

John R. Wine, Jr.
Attorney for ALLTEL Kansas Limited Partnership
Kansas Bar #10016
410 NE 43rd Street
Topeka, KS 66617
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FAX: 785.224.0339
jwine2@cox.net